IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 15949 of 2003

Between:

Pydi Kanthamma W/o. Late Polaiah
Scheduled Caste, R/o. Manubolupadu,
Dagadarthi Mandal, Nellore District

..... PETITIONER

AND

1 Station House Officer, Dagadarthi Police Station,
Nellore District
2 Sub-divisional Police Officer, Nellore Rural
3 Superintendent of Police, Nellore

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ in the nature of writ of mandamus declaring that (i) the action of the respondents No.1&2 in not taking steps in law to arrest or otherwise restrain the accused persons in Cr.No. 18/2003, P.S. Dagadarthi, Nellore District, from continuing their acts of intimidation and harassment of the petitioner and the scheduled castes of Dagadarthi; and (ii) the act of the respondent No.3 in issuing instructions dated 21/2/2003 ordering the Station House Officers of the district not to register any FIR in cases under the SC & ST (Prevention of Atrocities) Act without his permission, are unlawful, arbitrary and unreasonable; and further setting aside the said instructions of the respondent No.3 dated 21-2-2003 and directing the respondents No.1 & 2 to forthwith take steps to protect the petitioner and other scheduled castes of Dagadarthi from intimidation and harassment by the accused in Crime No.18/2003, P.S. Dagadarthi.

Counsel for the Petitioner:MR.K.BALAGOPAL

Counsel for the Respondent Nos.1 to 3: GP FOR HOME

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.15949 OF 2003

ORDER:

The petitioner is a resident of Manubolupadi Village in Dagadarthi Mandal of Nellore District. She seeks invalidation of orders of third respondent directing his subordinates not to register any cases under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, the Act) and for a further direction to the respondents not to resort to intimidation and harassment of the petitioner in connection with Crime No.18 of 2003. The petitioner herein gave a complaint to first respondent alleging that when she went to fetch water, persons belonging to upper caste prevented her and abused her by using her caste name (petitioner is a Scheduled Caste person). The same was, however, not registered by first respondent purportedly under the instructions of third respondent. Third respondent issued a radio message on 21.2.2003 directing all Police Stations not to register any case under the Act without permission of third respondent.

The Sub-Divisional Police Officer, Nellore (Rural) has filed a counter affidavit as well as additional counter affidavit. The impugned radio message is justified on the ground that the Station House Officers were registering cases under the Act even though no such case was made out in the F.I.R. and as this was causing considerable hurdles in investigation of crimes, which were registered under the provisions of Indian Penal Code as well as the Act, and in getting order of conviction in criminal courts, the radio message was issued. Though it is not stated in the counter affidavit or additional counter affidavit, learned Assistant Government Pleader for Home Mr.Venkata Narsimha Reddy submits that by subsequent radio message, the impugned radio message dt.21.2.2003 was withdrawn. Therefore, he would urge that the cause of action does not survive.

There cannot be any two opinions that it is the human right of every person to seek redressal in a legal forum and it is also a fundamental right of every person to seek legal justice against a person who has contravened the criminal law by committing offence (See Article 8 of the Universal Declaration of Human Rights, 1948, and Articles 14 and 17(2) of the International Covenant on Civil and Political Rights, 1966). This is well recognized even in Code of Criminal Procedure, 1973 (CrPC). Indeed, CrPC castes a duty on every person to report a cognizable crime to Station House Officer in-charge of Police Station under Section 154 of CrPC if any cognizable offence is reported, the officer in-charge of Police Station is bound to register crime and immediately take up investigation. This duty, castes on officer in-charge of Police Station, can never be diluted by head of the District Police, be it under the provisions of CrPC or be it under the provisions of Andhra Pradesh (Andhra Area) District Police Act, 1859. In that view of the matter, the impugned radio message is wholly unsustainable.

Section 4 of the Act carves out an offence against public servant, who is either negligent or not diligent in taking action against contraveners in relation to Section 3(1) of the Act. The impugned radio message also ignores Section 4 of the Act when it directs the subordinate police officers not to register any crime under the provisions of the Act. Such instructions have now given a cause of action to the petitioner to approach appropriate Police Station for registering crime against all those officials who are responsible for not registering the complaint given by the petitioner as cognizable offence under the provisions of the Act. If so advised, liberty is reserved to the petitioner to do so.

The Writ Petition, with the above observations, is accordingly disposed of.

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(V.V.S.RAO, J)

19.7.2005

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To

1 The Station House Officer, Dagadarthi Police Station,
Nellore District
2 The Sub-Divisional Police Officer, Nellore Rural
3 The Superintendent of Police, Nellore

4 2 CCs to G.P. for Home, High Court Bldgs., Hyderabad (OUT)

5 2 CD copies